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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,786	11/12/2003	Terrence W. Schmidt	1934-9-3	7807

7590 11/08/2004

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EXAMINER

OLSON, LARS A

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/712,786	Applicant(s) SCHMIDT ET AL.	
	Examiner Lars A Olson	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. An amendment was received from the applicant on September 27, 2004.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 and 8-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Aavitsland (US 5,862,770).

Aavitsland discloses the same vessel as claimed, as shown in Figures 1-3, that is comprised of a catamaran hull, defined as Part #1, with first and second hull portions, as shown in Figure 1, a payload, defined as Part #2, and a ballast system, as described in lines 63-67 of column 1 and lines 21-28 of column 2, that is operable to select one of multiple operating modes by adjusting the draft of said vessel, where the hull of said vessel is capable of moving from one location to another location in any of said operating modes.

Aavitsland also discloses the same method as claimed, as shown in Figures 1-3, that is comprised of the steps of selecting one of multiple hull modes for a vessel by adjusting the draft of said vessel, as described in lines 63-67 of column 1, and operating said vessel in the selected hull mode.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aavitsland in view of Barbier et al. (US 5,787,828).

Aavitsland, as set forth above, discloses all of the features claimed except for the use of a vessel with a ballast system that is operable to select a SWATH mode of operation by adjusting the draft of said vessel.

Barbier et al. discloses a SWATH cargo ship, as shown in Figures 1-6, that is comprised of a catamaran hull with first and second hull portions, defined as Part #11, and a ballast system, as shown in Figure 4, for adjusting the draft of said vessel using a payload.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a vessel with a ballast system that is operable to select a SWATH mode of operation, as taught by Barbier et al., in combination with the vessel as disclosed by Aavitsland for the purpose of providing a cargo vessel with a more efficient mode of operation through the adjustment of the draft of said cargo vessel.

Response to Arguments

6. Applicant's arguments filed on September 27, 2004 regarding claims 1-19 have been fully considered but they are not persuasive.
7. The applicant argues that Aavitsland (US 5,862,770) does not disclose a marine vessel that is capable of movement from one location to another location in multiple hull modes.
8. In response to the applicant's argument, Aavitsland discloses a sea-based transportation and load handling system that is comprised of a ship that is capable of operating in either one of two draft positions in order to transport a load unit from one location to another location. Marine vessels are in constant motion while on a body of water due to wind and water currents, regardless of whether they are under power, being towed or pushed by another vessel, or anchored. Thus, any movement of a cargo-carrying marine vessel over water in any direction by any means would be considered to be movement of a cargo or load from one geographic location to another geographic location, regardless of the distance traveled. Therefore, for the reasons given above, the rejection of claims 1-19 is deemed proper and is not withdrawn.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

November 5, 2004

LARS A. OLSON
PATENT EXAMINER

Lars Olson
11/5/04